IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application Serial No.:	10,737,316
Appellants:	Hornback et al.
Filing Date:	December 16, 2003
Art Unit:	2445
Examiner:	Lin Liu
Confirmation No.:	5949
Title:	Adaptive And Configurable Application Sharing System Using Manual And Automatic Techniques

Commissioner for Patents
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APPEAL BRIEF

In response to the Final Office Action, dated October 26, 2010, rejecting pending claims 1-9, and in support of the Notice of Appeal received by the U.S. Patent and Trademark Office on February 28, 2011, Appellants hereby submit this Appeal Brief to the Board of Patent Appeals and Interferences. Authorization is herein granted to apply the $540.00 requisite fee set forth in 37 C.F.R. §41.20(b)(2), and any other fees or credits due in this case to Deposit Account No. 122158. Appellants respectfully request reconsideration and reversal of the Examiner's rejections of the pending claims.

REAL PARTY IN INTEREST

The Real Party in Interest is International Business Machines Corporation, the owner of all rights of this patent application by virtue of an assignment recorded at reel and frame number 014803/0915.

RELATED APPEALS AND INTERFERENCES

None.

JURISDICTIONAL STATEMENT

This Appeal is taken under 37 CFR § 41.37, in response to the final Office Action dated October 26, 2010, rejecting pending claims 1-9, and in support of the Notice of Appeal received by the U.S. Patent and Trademark Office on February 28, 2011.

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TABLE OF AUTHORITIES

None.

STATUS OF CLAIMS

The patent application as originally filed on December 16, 2003 included claims 1-22. Appellants elected to prosecute Claims 1 – 9 and 15 – 17 on May 17, 2007 in response to a restriction requirement mailed May 11, 2007. Claim 15 was amended in an Amendment and Response dated August 28, 2007 in response to a non-final Office Action mailed May 30, 2007. Claims 1 and 15 were amended in an Amendment and Response dated January 8, 2008 in response to a final Office Action mailed November 8, 2007. The amendments to Claims 1 and 15 were re-submitted with a Request for Continued Examination on February 7, 2008. No amendments were made in response to non-final Office Action mailed April 14, 2008. Claims 1 and 15 were amended and submitted with a Request for Continued Examination in an Amendment and Response dated January 26, 2009 in response to a final Office Action mailed September 24, 2008. Claims 1 and 15 were amended and submitted with a Request for Continued Examination dated January 26, 2009. Claims 1 and 15 were amended in a Response filed on July 16, 2009 in response to a non-final Office Action mailed on April 16, 2009. Claims 1 and 15 were amended in a request for reconsideration filed on May 19, 2010 in response to a final Office Action mailed on November 25, 2009. Claim 1 was amended and

Claims 15 – 17 were cancelled in response to a non-final Office Action mailed August 26, 2010. A notice of appeal was filed on February 28, 2011 in response to a final Office Action received on October 26, 2010. Claim 1 was amended on April 28, 2011 to correct a formality. The current status of claims is:

1. (Currently Amended)
2. (original)
3. (original)
4. (original)
5. (original)
6. (original)
7. (original)
8. (original)
9. (original)
10. (withdrawn)
11. (withdrawn)
12. (withdrawn)
13. (withdrawn)
14. (withdrawn)
15. (cancelled)
16. (cancelled)

17.(cancelled)

18.(withdrawn)

19.(withdrawn)

20.(withdrawn)

21.(withdrawn)

22.(withdrawn)

Accordingly, claims 1 - 9 are pending in the application and are the subject of this appeal.

STATUS OF AMENDMENTS

1. The patent application as originally filed included claims 1 - 22.
2. Appellants elected to prosecute Claims 1 – 9 and 15 – 17 on May 17, 2007 in response to a restriction requirement mailed May 11, 2007.
3. A non-final Office Action was mailed May 30, 2007. Claim 15 was amended in an Amendment and Response dated August 28, 2007 in response to this Office Action.
4. A final Office Action was mailed November 8, 2007. Claims 1 and 15 were amended in response.
5. A Request for Continued Examination was filed on February 7, 2008.

6. A non-final Office Action was mailed April 14, 2008 citing new grounds of rejection. No amendments were made in a Response mailed July 9, 2008.
7. A final Office Action was mailed September 24, 2008, maintaining the rejection.
8. Claims 1 and 15 were amended and submitted with a Request for Continued Examination dated January 26, 2009.
9. A non-final Office Action was mailed April 16, 2009, citing new grounds of rejection. An Amendment and Response was filed on July 16, 2009 amending Claims 1 and 15.
10. A final Office Action was mailed on November 25, 2009, maintaining the rejection.
11. A request for reconsideration was filed on May 19, 2010, along with an Amendment and Response amending Claims 1 and 15.
12. A non-final Office Action was mailed May 26, 2010, maintaining the rejection. Claim 1 was amended and Claims 15 – 17 cancelled in an Amendment and Response mailed August 26, 2010.
13. A final Office Action was mailed on October 26, 2010 presenting new grounds of rejection.

14. A Notice of Appeal was filed on February 28, 2011 in response to the October 26, 2010 final Office Action.

15. An Amendment was filed on April 28, 2011 in order to comply with an objection to Claim 1 to correct an informality.

16. Accordingly, claims 1 - 9 are pending in the application and are the subject of this appeal.

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The final Office Action issued the following rejections:

I. Claims 1 – 6 and 8 – 9 are rejected under 35 U.S.C. § 102(e) as being anticipated by Roy et al. (Patent No. US 6,7,149,776).

II. Claim 7 is rejected under 35 U.S.C. § 103(a) over Roy in view of Fedotov et al. (PGPUB: US 2004/0180196).

Accordingly, the grounds of rejection to be reviewed on appeal are grounds I as applied to claims 1-6 and 8 - 9, and grounds II as applied to claim 7.

SUMMARY OF CLAIMED SUBJECT MATTER

Claim 1

Appellants invention, as recited in currently pending independent Claim 1, sets forth a method for configuring and dynamically adapting an application sharing system comprising a plurality of computers in communication over a network, one of the computers sharing an application with at least one other computer over the network. This environment is demonstrated in the Appellants' specification at Figure 1 and described in the specification at [00022]. ("FIG. 1 illustrates a network architecture in which the present invention can be implemented. The architecture includes a sharing computer 10 communicating through a network 14 with one or more remote computers 18. As used herein, the phrase remote computer means any computer functionally independent, except for application sharing, from the sharing computer 14. The remote computers 18 can be located in the same facility as the sharing computer 10 or they may be located at a geographically remote site. The network 14 may be any one of a variety of types.) The method of the invention comprises the steps of:

(a) providing at least one of the plurality of computers with a plurality of system components, one of the system components adapted to provide feedback to the

shared application; ([00024]" The application sharing system 30 also includes configurable software components 60 that can be configured to achieve a desired result….[00026] "A configurable component 60 can generate feedback data for monitoring if the performance of the component 60 is of importance for the particular shared application."

(b) determining a preference for the shared application; ([0023] "The application sharing system 30 includes a user interface 34 to enable a user to specify and save user preferences 38 for use with specified applications. Users can choose to continue with previously saved user preferences (or default preferences) stored in memory 42 from a prior session or, alternatively, store the current preferences 38 in memory 42. The application sharing system 30 also includes an administrator user interface 46 to enable a system administrator to specify and save administrator preferences 50 in memory 54 for use with identified applications. Administrator preferences 50 affect all users under administration, such as all computers on a LAN.")

(c) monitoring by the one of the computers the feedback generated by the one of the system components to determine whether the system component is performing satisfactorily, said feedback indicating the performance of the component relative to the determined preference; ([00026] "A configurable component 60 can

generate feedback data for monitoring if the performance of the component 60 is of importance for the particular shared application." [00031]" The application to be shared is executed (step 120). The configurable components are tested during the execution of the shared application and data is stored (step 130) for evaluation. The collected data is the same type of data that are monitored and collected during a normal sharing session. For example, when calibrating with an image application, the collected data indicate image performance and are indicate whether the present image compressor is performing satisfactorily. The next time a user attempts to share using the same image application, the system may exclude the image compressor if the calibration data were unsatisfactory. The user then enters (step 140) preferences for the shared application. Based on the collected data and the user preferences, optimal component configurations are determined (step 150) for the shared application and stored for that user.")

(d) configuring the one of the system components in response to the determined preference and the monitored feedback, said configuring comprising adjusting an algorithm used to implement the system component, the configuring of the system component causing an adjustment in the performance of the shared application for a plurality of computers sharing the application. ([00031] "Based on the collected data and the user preferences, optimal component configurations are determined (step 150) for the shared application and stored for that user. The component

configurations are saved with the named application and are used for all application sharing sessions with the named application unless preferences are changed or a component is determined not to satisfy a user need."). Example of configuration of a component: [00026] "The feedback data is used by the dynamic configuration logic 68 to allow for hot swapping of modules for the configurable components 60. In a more detailed example, if bandwidth availability decreases, the system 30 reacts by implementing an image compression algorithm having a higher compression ratio. When the available bandwidth later increases to greater than a threshold bandwidth, the image compression component 60c changes to a lower compression ratio algorithm. The selection of the appropriate compression algorithm can be based on additional parameters, such as the time required to compress the data. In some instances where data rates and image latency are critical, the selected compression algorithm may not simply result in implementation of an algorithm with the highest compression ratio."

ARGUMENT

Grounds I: Claims 1 – 6 and 8 – 9 are rejected under 35 U.S.C. § 102(e) as being anticipated by Roy et al. (Patent No. US 6,7,149,776).

The Appellants' exemplary Claim 1 sets forth:

"A method for configuring and dynamically adapting an application sharing system comprising a plurality of computers in communication over a network, one of the computers sharing an application with at least one other computer over the network, the method comprising:

providing at least one of the plurality of computers with a plurality of system components, one of the system components adapted to provide feedback to the shared application;

determining a preference for the shared application;

monitoring by the one of the computers the feedback generated by the one of the system components to determine whether the system component is performing satisfactorily, said feedback indicating the performance of the component relative to the determined preference; and

configuring the one of the system components in response to the determined preference and the monitored feedback, said configuring comprising

adjusting an algorithm used to implement the system component, the configuring of the system component causing an adjustment in the performance of the shared application for a plurality of computers sharing the application."

In the Appellants' claimed system, a plurality of computers share an application. At least one of the computers has a plurality of system components. One of the system components is adapted to provide feedback to the shared application. Amongst other claimed features, the computer monitors and configures the system component based on feedback from it to adjust the performance of the system component for all the computers.

Roy discloses a browser that can be used for on-line collaboration. The Office Action first suggests that Roy discloses the claimed "providing at least one of the plurality of computers with a plurality of system components, one of the system components adapted to provide feedback to the shared application (Roy: fig, 2, col. 5, lines 41 to lines 67, noted the collaboration server)". The Office Action does not specifically set forth here what in Roy is interpreted as the claimed "plurality of computers", "system components" or "shared application".

However, the Office Action does interpret Roy: Fig. 1 and col. 3 line 60 to col. 4 line 3 as "one of the computers sharing an application with at least one other computer over the network". Roy at col. 3 line 60 – col 4 line 3 states: "A

document accessed in a real-time on-line collaboration may be a web page, a document prepared by an application program (e.g., a word processing document, a spreadsheet, a presentation, or some other electronic document.) Thus the "shared application" herein referred to in Roy is an application program that produces a document or other output to be displayed by the proxy browser program on the collaboration server – not the collaboration server browser itself. Further, see Roy Fig. 1 and col. 4 line 59 – col. 5 line 10. Here, Roy describes an "Application server 120" connected to the collaboration server 110. "The application server 120 includes application module 122, which may be configured to facilitate the sharing, among the attendees, of an application, document or other item generated by the application." (Roy Col. 4 lines 61 – 64).

Thus if the Office Action interprets the claimed "shared application" as the application programs described at Roy col. 3 line 60 – col 4 line 3, further described at Roy Col. 4 lines 61 – 64, then Roy fails to teach or suggest the claimed steps of "providing at least one of the plurality of computers with a plurality of system components adapted to provide feedback to the shared application", and "the configuring of the system component causing an adjustment in the performance of the shared application for a plurality of computers sharing the application", as these "shared applications" of Roy provide browser pages for the collaboration server of Roy via the conversion server 140, and then are not

further addressed anywhere in Roy. There is no indication that their performance is adjusted. Thus Roy fails to teach or suggest the Appellants invention as claimed in Claims 1-6 and 8 – 9 and the Application is allowable.

If the Office Action interprets the claimed "shared application" as the collaboration server of Roy as described at Roy fig, 2, col. 5, lines 41 to lines 67, the claimed "system components" must be the various elements shown in fig. 2 of Roy making up Co-browsing module 200. The claimed "feedback to the shared application" is not addressed in the Office Action.

Next, the Appellants address what is meant by the claimed step of "monitoring". Appellants note that what is claimed is "monitoring by the one of the computers the feedback generated by the one of the system components to determine whether the system component is performing satisfactorily, said feedback indicating the performance of the component relative to the determined preference". The Office Action has characterized the claimed "preference for the shared application" as related to "rule engine 234" of Roy, which is interpreted as transmitting client permissions or roles to attendees . The Office Action then characterizes the claimed "monitoring by the one of the computers the feedback generated by the one of the system components (interpreted as the rule engine 234) to determine whether the system component is performing satisfactorily, said feedback indicating the performance of the component relative to the determined

preference" by referring to "Roy: fig. 2, col. 5, lines 63 to col. 6 line 19, noted the session manager authenticates and verifies client permission or roles".

The Appellants disagree with this interpretation. If the claimed "preference" is interpreted as "attendee's permissions or roles" and the claimed "monitoring" is interpreted as occurring at the session manager, what represents the claimed "feedback generated by the one of the system components (characterized as the rule engine 234) to determine whether the system component is performing satisfactorily, said feedback indicating the performance of the component relative to the determined preference? The rule engine is not generating feedback indicating the performance of itself. The session manager does not monitor feedback from the rule engine. And, to clarify, any responses coming from attendees to the session manager are not to be interpreted as claimed "feedback" because they are not generated by "system components" within the "computer" as claimed.

Roy further fails to teach or suggest the claimed step of "configuring the one of the system components in response to the determined preference and the monitored feedback, said configuring comprising adjusting an algorithm used to implement the system component, the configuring of the system component causing an adjustment in the performance of the shared application for each computer sharing the application". Since the claimed monitored feedback is not

taught, this step is not taught. And there is no disclosure of "configuring" the rule engine 234 itself, or of adjusting an algorithm used to implement it, particularly in response to any monitored feedback from rule engine 234. The rule engine 234 is simply executed as is.

Thus, Roy fails to teach or suggest the Appellants' claimed method for configuring and dynamically adapting an application sharing system, including the steps of providing at least one of the plurality of computers with a plurality of system components, one of the system components adapted to provide feedback to the shared application", "monitoring by the one of the computers a feedback generated by the one of the system components to determine whether the system component is performing satisfactorily, said feedback indicating the performance of the component relative to the determined preference", and of "configuring the one of the system components in response to the determined preference and the monitored feedback, said configuring comprising adjusting an algorithm used to implement the system component, the configuring of the system component causing an adjustment in the performance of the shared application for each computer sharing the application".

The Appellants therefore assert that Claims 1 – 5 and 9 are not anticipated by Roy and are allowable.

Dependent claims 2 – 6 and 8 - 9

Each of these dependent claims depends from allowable claim 1 and incorporates all of its limitations. Therefore, Appellants submit that dependent claims 2 – 6 and 8 - 9 are allowable at least for the reasons provided above with respect to independent Claim 1.

Grounds II: Rejection of dependent Claim 7 under 35 U.S.C. § 103(a) over Roy in view of Fedotov et al. (PGPUB: US 2004/0180196).

Claim 7 was rejected under 35 U.S.C. 103(a) as being unpatentable over Roy in view of Fedotov et al. (PGPUB: US 2004/0181796). Claim 7 depend on Claim 1. Fedotov adds nothing further to solve the deficiencies of Roy as discussed above. Thus Roy and Fedotov, taken together or in part, fail to teach or suggest the Appellants' claimed invention as set forth in Claim 1. The Appellants therefore respectfully assert that Claim 7 is in condition for allowance.

CONCLUSION

In view of the arguments made herein, Appellants submit that the application is in condition for allowance.

Respectfully submitted,

Date: April 28, 2011

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CLAIMS APPENDIX

1. (rejected) A method for configuring and dynamically adapting an application sharing system comprising a plurality of computers in communication over a network, one of the computers sharing an application with at least one other computer over the network, the method comprising:

providing at least one of the plurality of computers with a plurality of system components, one of the system components adapted to provide feedback to the shared application;

determining a preference for the shared application;

monitoring by the one of the computers the feedback generated by the one of the system components to determine whether the system component is performing satisfactorily, said feedback indicating the performance of the component relative to the determined preference; and

configuring the one of the system components in response to the determined preference and the monitored feedback, said configuring comprising adjusting an algorithm used to implement the system component, the configuring of the

system component causing an adjustment in the performance of the shared application for a plurality of computers sharing the application.

2. (rejected) The method of claim 1 wherein the system component comprises one of a compression algorithm, a change detection algorithm, a screen capture device and a data transport type.

3. (rejected) The method of claim 1 wherein the preference is a user preference.

4. (rejected) The method of claim 3 wherein the user preference defines at least one of an image quality and a latency.

5. (rejected) The method of claim 3 wherein the user preference defines at least one of a CPU usage and a fidelity.

6. (rejected) The method of claim 1 wherein the preference is an administrator preference.

7. (rejected) The method of claim 6 wherein the administrator preference limits the selection of a user preference according to a maximum data rate.

8. (rejected) The method of claim 6 wherein the administrator preference limits the selection of a user preference according to an image compression type.

9. (rejected) The method of claim 1 further comprising selecting the preference for the shared application.

10. (withdrawn)

11. (withdrawn)

12. (withdrawn)

13. (withdrawn)

14. (withdrawn)

15. (cancelled)

16. (cancelled)

17. (cancelled)

18. (withdrawn)

19. (withdrawn)

20. (withdrawn)

21. (withdrawn)

22. (withdrawn)

EVIDENCE APPENDIX

None.

RELATED PROCEEDINGS APPENDIX

None.